IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.114 OF 2007

Hemant Jagannath Nikam ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri V.V.Gangurde h/for Mr.Bhagat, advs. for the Applicant.
Mrs.M.H.Mhatre, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 22nd February, 2007.

P.C.:

1. Heard Mr.Gangurde, the learned counsel for the applicant and Mrs.Mhatre, the learned APP for the State.

2. The applicant seeks to be released on bail in crime No.227 of 2006 registered at Ambernath police station for the offence punishable under Section 302 read with Section 34 of the I.P.C.

3. Prosecution case in brief is that during the night between 11-6-2006 and 12-6-2006, one Mangesh, who was working as a watchman at the factory of first informant was murdered. At about 7.00 a.m., the first informant, Robin got a telephonic message from one Ramesh that watchman Mangesh was lying dead on the chair near the gate of the factory. Robin went to the spot

and thereafter, lodged the report. Naturally the offence was registered against unknown persons. During the investigation, it was revealed that one Malappa, who is the eye witness, had seen the accused applicant Hemant causing the head injury. Besides this, the present applicant had made extra judicial confession before another witness Shobha. Not only this, the stone, which was allegedly used as a weapon of offence, was also recovered on the basis of information given by the present applicant. P.M.Report reveals that there were multiple lacerated wounds and a fracture of skull resulting in haemorrhagic shock and death. Thus, not only there is a direct evidence of eye witness but also the extra judicial confession and recovery of weapon of the offence, i.e., the stone, at the instance of the accused.

4. It is contended on behalf of the applicant that other two accused namely, Deepak and Prashant, have been granted bail by the Sessions Court and on the principle of parity, the present applicant also deserves to be granted bail. However, it is pointed out on behalf of the prosecution that in respect with those two accused, there is no direct evidence nor there is any recovery of any incriminating articles. Therefore, their case was distinguished from the present accused. Taking into

consideration the circumstances, I find that the present applicant can not be granted bail merely on the principle of parity with other two accused.

5. Application stands rejected.

6. As the accused is in custody for the last about 8 months, the learned Sessions Court shall expedite the trial and dispose off the matter as early as possible.

(J.H.Bhatia,J.)